

**ASSEMBLY BILL**

**No. 1040**

**Introduced by Assembly Member Leno**

February 20, 2003

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An act to amend Sections 7280, 30111, and 30462 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1040, as introduced, Leno. Occupancy taxes: cigarette taxes.

Existing law authorizes cities and counties to levy specified transient occupancy taxes.

This bill would make technical, nonsubstantive changes to those provisions.

The Cigarette and Tobacco Products Tax Law imposes a tax on every distributor of cigarettes and tobacco products at specified rates, and requires all moneys from that tax that are deposited in the Cigarette Tax Fund be allocated for specified purposes.

This bill would make technical, nonsubstantive changes to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 7280 of the Revenue and Taxation Code  
2     is amended to read:  
3     7280. (a) The legislative body of any city or county may levy  
4     a tax on the privilege of occupying a room or rooms, or other living  
5     space, in a hotel, inn, tourist home or house, motel, or other

1 lodging unless the occupancy is for ~~any~~ a period of more than 30  
2 days. The tax when levied by the legislative body of a county shall  
3 apply only to the unincorporated areas of the county.

4 (b) For purposes of this section, the term “the privilege of  
5 occupying a room or rooms, or other living space, in a hotel, inn,  
6 tourist home or house, motel, or other lodging” does not include  
7 the right of an owner of a timeshare estate in a room or rooms in  
8 a timeshare project, or the owner of a membership camping  
9 contract in a camping site at a campground, or the guest of the  
10 owner, to occupy the room, rooms, camping site, or other real  
11 property in which the owner retains that interest.

12 For purposes of this subdivision:

13 (1) “Timeshare estate” means a timeshare estate, as defined by  
14 Section 11003.5 of the Business and Professions Code.

15 (2) “Membership camping contract” means a right or license  
16 as defined by subdivision (b) of Section 1812.300 of the Civil  
17 Code.

18 (3) “Guest of that owner” means a person who does either of  
19 the following:

20 (A) Occupies real property accompanied by the owner of either  
21 of the following:

22 (i) A timeshare estate in that real property.

23 (ii) A camping site in a campground pursuant to a right or  
24 license under a membership camping contract.

25 (B) Exercises that owner’s right of occupancy without payment  
26 of any compensation to the owner.

27 “Guest of that owner” specifically includes a person occupying  
28 a timeshare unit or a camping site in a campground pursuant to any  
29 form of exchange program.

30 (c) For purposes of this section, “other lodging” includes, but  
31 is not limited to, a camping site or a space at a campground or  
32 recreational vehicle park, but does not include any of the  
33 following:

34 (1) Any ~~facilities~~ facility operated by a local government entity.

35 (2) Any lodging excluded pursuant to subdivision (b).

36 (3) Any campsite excluded from taxation pursuant to Section  
37 7282.

38 (d) Subdivision (b) shall not affect or apply to the authority of  
39 any city or county to collect a transient occupancy tax from  
40 timeshare projects ~~which~~ that were in existence as of May 1, 1985,

1 and which timeshare projects were then subject to such a tax  
2 imposed by an ordinance duly enacted prior to May 1, 1985,  
3 pursuant to this section. The act adding this subdivision shall not  
4 in any way affect any litigation pending on or prior to December  
5 31, 1985.

6 SEC. 2. Section 30111 of the Revenue and Taxation Code is  
7 amended to read:

8 30111. The taxes imposed by this part are in lieu of ~~all~~ any  
9 other state, county, municipal, or district ~~taxes~~ tax on the privilege  
10 of distributing cigarettes or tobacco products.

11 This section does not prohibit the application of Part 1  
12 (commencing with Section 6001), Part 1.5 (commencing with  
13 Section 7200), Part 1.6 (commencing with Section 7251), or  
14 Article 2 (commencing with Section 37021) of Part 17 to the sale,  
15 storage, use or other consumption of cigarettes or tobacco  
16 products.

17 SEC. 3. Section 30462 of the Revenue and Taxation Code is  
18 amended to read:

19 30462. (a) All money deposited in the Cigarette Tax Fund  
20 under this part is hereby appropriated, subject to the provisions of  
21 any budget bill heretofore or hereafter enacted and Section 11006  
22 of the Government Code, and shall, upon order of the Controller,  
23 be drawn therefrom and allocated for the following purposes:

24 (1) To pay the refunds authorized by this part.

25 (2) The balance remaining in the fund shall be transferred to the  
26 General Fund of this state on or before the last calendar day of each  
27 month.

28 (b) It is the intent of the Legislature that Section 30111  
29 continues to prohibit the imposition of *any* local ~~taxes~~ tax by any  
30 city, charter city, town, county, charter county, city and county,  
31 charter cities and counties, or other political subdivision or agency  
32 of this state, on the sale, use, ownership, holding, or other  
33 distribution of cigarettes and tobacco products except as provided  
34 by Section 30111. The Legislature finds and declares that the need  
35 for uniform statewide regulation and collection of cigarette taxes  
36 is a matter of statewide concern, and it is the Legislature's intent  
37 to regulate the subject matter of cigarette taxes comprehensively

- 1 and to occupy the field to the exclusion of local action, except as
- 2 specifically provided by Section 30111.

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